



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/817,213 Confirmation No.: 3864
Applicant : N. Arini, et al.
Filed : April 2, 2004
TC/A.U. : 2621
Examiner : To be assigned

Docket No. : PA0385
Customer No. : 22840

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

May 2, 2005

REQUEST FOR RECONSIDERATION OF PETITION
UNDER 37 C.F.R. § 1.47(a)

Sir:

In connection with the captioned application, the undersigned Petitioners' representative respectfully requests reconsideration of the Decision Refusing Status Under 37 C.F.R. § 1.47(a) having the mailing date of December 30, 2004.

Petitioners file concurrently herewith a petition to extend the period of response two (2) months from February 28, 2005 up to and including April 30, 2005.

Petitioners state as follows:

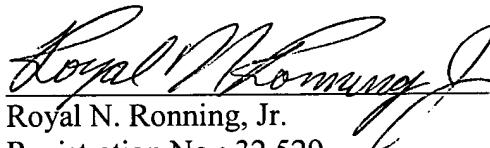
1. A copy of the Decision Refusing Status Under 37 C.F.R. § 1.47(a) dated December 30, 2004, of Petitioners' October 29, 2004, Petition is attached hereto as Exhibit 1. Paragraphs 4 and 5 accurately summarize the facts of the filing of the captioned application, the obtaining of 9 of the 10 inventors signatures on the Declaration, as well as the attempts to contact the non-signing inventor, Jurek Cybuch, at his last known address.
2. A copy of the Petition filed under 37 C.F.R. § 1.47(a) is attached hereto as Exhibit 2.
3. The Decision (Exhibit 1), in the last paragraph on page 1, sets forth the requirements for a grantable petition under 37 C.F.R. § 1.47(a), and notes that the petition appended hereto as Exhibit B lacks items 1, 2 and 4. Petitioners respectfully disagree.
4. Paragraphs 2–7 of Page 2 (Exhibit 1) discuss the “absence” of item 1, preceding it with the statement “Rule 47 has no application to a deceased inventor. MPEP 409.03(c)”. However, Petitioners have never averred that Inventor Cybuch is deceased. Indeed, Petitioners are unsure as to whether the inventor has passed away or merely moved and remains unreachable. The only discussion of the possible death of Inventor Cybuch is presented in paragraph 8 of the Petition

(Exhibit 2), wherein the new owner of the last known residence of Inventor Cybuch stated that he had moved prior to passing away. That information was presented in the Petition because it is contained within the affidavit of the Bailiff who went to the address in an attempt to contact Inventor Cybuch. However, Petitioners do not know whether this information is accurate and, indeed, only know that Inventor Cybuch moved from his last known residence without leaving a forwarding address. That he may have passed away is a possibility; however, Petitioners have not been able to substantiate this report. Accordingly, Petitioners respectfully assert that this should be retreated as a Petition under Rule 47, as there is no definitive evidence of a deceased inventor.

5. Paragraphs 7 and 8 on page 2 of the attached Decision discuss item 2, and Petitioners respectfully submit that the Declaration is proper inasmuch as there is no evidence as to whether the non-signing inventor is deceased. Indeed, all Petitioners can say with any certainty is that the inventor has moved and has not left a forwarding address and cannot be located. Regarding item 4, the address listed on the Declaration is the one that the inventor used and is the address of his place of business. However, Petitioners also have the address of Inventor Cybuch's last known residence and have attempted to contact him there as well. Petitioners respectfully submit that both last known addresses have been properly presented, one in the Declaration and the other in the Petition and Affidavit of the Bailiff attempting to contact him.

In summary, Petitioners respectfully request reversal of the denial of the Petition. Petitioners believe that they have presented all of the required information in the proper form in their Petition and respectfully request that it be granted. Petitioners surmise that the raising of the fact that the inventor may be deceased may have caused a misunderstanding on the part of the parties reviewing the Petition and hope that the information presented in this Petition for Reconsideration properly explains and that grant of the Petition can be achieved.

Respectfully submitted,

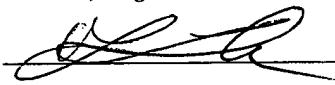


Royal N. Ronning, Jr.
Registration No.: 32,529
Attorney for Petitioners

Amersham Biosciences Corp
800 Centennial Avenue
P. O. Box 1327
Piscataway, New Jersey 08855-1327

Tel: (732) 457-8423
Fax: (732) 457-8463

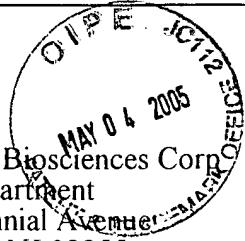
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on May 2, 2005.

Signature: 

Name: Melissa Leck



UNITED STATES PATENT AND TRADEMARK OFFICE



Amersham Biosciences Corp.
Patent Department
800 Centennial Avenue
Piscataway NJ 08855

DUE DATE:	28 Feb 2005
FORMALITIES:	MLV HL
PAT. OFF:	IB
ON DB:	4 JAN 2005
CASE NO:	PA0385

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

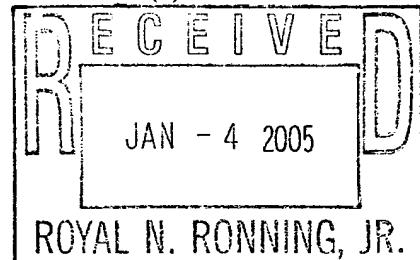
COPY MAILED

DEC 30 2004

OFFICE OF PETITIONS

In re Application of
Arini, et al.
Application No.: 10/817,213
Filed: April 2, 2004
Attorney Docket No.: PA0385
For: METHOD OF, AND COMPUTER
SOFTWARE FOR, CLASSIFICATION OF
CELLS INTO SUBPOPULATIONS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)



This is a decision on the petition under 37 CFR 1.47(a), filed October 29, 2004 (certificate of mailing date October 27, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on April 2, 2004 without an executed oath or declaration. Accordingly, on May 24, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on October 29, 2004 (certificate of mailing date October 27, 2004), a petition for a four month extension of time and required fee, a declaration executed by 8 of 9 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement from Bailiff Jim Marlow of the City of Niagara Falls in the Regional Municipality of Niagara, Ontario, Canada accompanies the petition. Mr. Marlow explains that when he attempted to deliver a package at the last known address of the non-signing inventor, Jurek Cybuch, that the current owner told him that Mr. Cybuch had died and that the previous owner, Ms. Kateryna Turczyn, had sold the house and moved to Europe.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s)/legal representative refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s)/legal representative.

This petition lacks item (1), (2), and (4) above.

As to item (1), Rule 47 has no application to a deceased inventor. MPEP 409.03(c). However, Rule 47 does apply where a legal representative of a deceased inventor cannot be found or reached after diligent effort, or has refused to make application. Applicant has failed to establish that the legal representative of the deceased inventor cannot be located or has refused to sign the declaration. It appears that petitioners have made no effort to locate a legal representative for the deceased inventor.

The Office requires that the legal representative of the deceased inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

The legal representative must have the complete application in his/her possession in order to make an informed decision as to whether he/she joins in its filing. The legal representative cannot make the necessary statements -- "I have reviewed and understand..." etc.-- without looking at the application papers.

Once delivery of the complete application to the legal representative's last known address is established and no response has been received within a reasonable amount of time, applicant will have shown constructive refusal by the legal representative to join in the filing of the application.

If petitioners allege that the legal representative of the deceased inventor cannot be reached, petitioners must engage in diligent efforts to locate him/her. Where inability to find or reach a nonsigning inventor is alleged, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied upon to establish that a diligent effort was made to locate the nonsigning inventor.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains no information for the legal representative. **Petitioners must submit another declaration that lists identifying information for the inventors, including the deceased inventor, and the legal representative. This new declaration must be executed by the signing inventors.** The identifying information must include: -- Name, Residence, Citizenship, and Post Office. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the deceased inventor's legal representative is REQUIRED. See MPEP 409.03(a).

As to (4) above, the last known address of the legal representative must be given. See MPEP 409.03(c).

Pursuant to petitioners' authorization, deposit account no. 50-2590 will be charged the \$130.00 petition fee owed. The Office has already charged the \$130.00 surcharge and the \$1,530.00 four month extension of time fee to the same deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: AMERSHAM BIOSCIENCES CORP
800 CENTENNIAL AVENUE
P.O. BOX 1327
PISCATAWAY, NJ 08855-1327

Our Reference Number: PA0385

Serial Number: 10/817,213

Filing Date: Apr. 12, 2004

The USPTO acknowledges and has stamped hereon the date of receipt
of the items checked below.

Specification - ____ pgs.
 Claims - ____ pgs.
 Abstract - 1 pg.
 Drawings - ____ sheets (formal)
 Filing Fee - \$ ____ (Dep. Acct.)
 Certificate of Mailing by Express Mail
 Certificate of Mailing by First Class Mail
 Signed / Unsigned Declaration/Power of Attorney
 Assignment
 Recordation Form Cover Sheet (w/copy)
 Recordation Fee - \$ ____ (Dep. Acct.)
 Notification of Missing Parts (copy)
 Missing Parts Fee - \$ 130 (Dep. Acct.) OCT 29 2004
 Transmittal Letter (w/copy) - 135
 Information Disclosure Statement (PCT ref.)
 PTO-1449 - ____ pgs.
 Response to _____ Office Action - ____ pgs.
 Petition for Extension of 4 months time (w/copy)
 Extension of Time Fee - \$ 1530 (Dep. Acct.)
 Issue Fee - \$ ____ (Dep. Acct.)
 Transmittal of Payment of Issue Fee (w/copy)

Part B - Fee(s) Transmittal (w/copy)
 Fee Address Indication Form
 Publication Fee - \$ ____ (Dep. Acct.)
 Petition Fee - \$ 130 (Dep. Acct.)
 Notice of Appeal (w/copy)
 Appeal Fee - \$ ____ (Dep. Acct.)
 Appeal Brief in triplicate - ____ pgs.
 Transmittal of Appeal Brief (w/copy)
 PCT Request - ____ pgs.
 PCT Fee Calculation Sheet
 PCT Easy file on diskette
 PCT General Power of Attorney (copy)
 Published PCT application (copy)
 Int'l Preliminary Exam. Report (copy)
 Int'l Search Report (copy)
 Sequence Listing printed version - ____ pgs.
(w/required statements - ____ pgs.)
 Sequence listing on 4 CDs / 1 diskette
 _____ Preliminary Amendment - ____ pgs.
 Request for Corrected Filing Receipt - ____ pgs.
(w/marketed-up copy of filing receipt dated _____)
 Petition Under 37 CFR 1.47(a) - 5pgs
w/ 33 pgs of Exhibits
 Verified Statement in Support of Petition Under 37 CFR 1.47(a) - 4pgs w/ 15 pgs of Exhibits

Attorney: R. Ronning

Date Mailed: Oct. 27, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Appl. No. : 10/817,213 Confirmation No.: 3864
Applicant : Nick Arini
Filed : April 2, 2004
TC/A.U. : 2621
Examiner : To be assigned

Docket No. : PA0385
Customer No. : 22840

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

October 27, 2004

PETITION UNDER 37 C.F.R. 1.47(A)

The undersigned states and declares as follows:

1. I am a registered patent attorney authorized to practice before the United States Patent and Trademark Office (Reg. No. 32,529).
2. I am employed by Amersham Biosciences Corp as Vice President, Intellectual Property, North America. As part of my duties in that position, I am responsible for coordinating the United States filing of patent applications owned by Amersham Biosciences Corp, now known as GE Healthcare, and its sister corporations, which includes the captioned application owned by Amersham Biosciences Niagara, Inc.
3. The captioned application was filed on April 2, 2004. The referenced patent application claims the benefit of patent application number 0307684.1 filed in

Great Britain on April 2, 2003 and patent application number 0327651.6 filed in Great Britain on November 28, 2003.

4. On May 24, 2004, a “Notice to File Missing Parts of Nonprovisional Application filed Under 37 C.F.R. 1.53(b)” was mailed in connection with the captioned application for lack of a signed oath or declaration. A copy is attached hereto as Exhibit 1.
5. Each of the nine (9) inventors, namely Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Jurek Cybuch, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy was employed by Amersham Biosciences Niagara, Inc. at the time the invention of the referenced application was made. A request was made of the Human Resources Department of Amersham Biosciences Niagara, Inc. to confirm the mailing address for each of the nine (9) inventors. A satisfactory reply had been received with regard to all but inventor Cybuch. Attached hereto as Exhibit 2 is a copy of an email exchange between Susan Wildman, Patent Formalities Officer of Amersham plc, and Anne Lancaster of the Human Resources Department of Amersham Biosciences Niagara, Inc., dated August 5, 2004 and August 9, 2004. Ms. Lancaster advised that numerous attempts to locate inventor Cybuch have been unsuccessful and provided the last known address listed in the records.
6. A combined Declaration and Power of Attorney having six (6) total pages, attached hereto as Exhibit 3, was prepared and mailed to the last known address of inventor Cybuch via First Class United States postal service and via Federal Express and hand delivered via Niagara Bailiff Services. A copy of the covering

letter dated August 25, 2004, is attached hereto as Exhibit 4 showing that enclosed with the combined Declaration and Power of Attorney was an Assignment form and a complete copy of the application as filed with the United States Patent and Trademark Office on April 2, 2004.

7. The envelope mailed via First Class United States postal service on August 25, 2004, was not returned. The Federal Express envelope mailed August 25, 2004, was returned with the indication "RECIPIENT MOVED" followed by "no phone listing." A copy of the returned Federal Express envelope is attached hereto as Exhibit 5.
8. On September 10, 2004, an attempted service of the envelope at inventor Cybuch's last known address was made by Bailiff Jim Marlow of the City of Niagara Falls in the Regional Municipality of Niagara, Ontario, Canada. A copy of Bailiff Marlow's Affidavit of Attempted Service is attached hereto as Exhibit 6. The affidavit states that Bailiff Marlow was advised by the current owner of the property listed as inventor Cybuch's last known address that subsequent to inventor Cybuch's passing away, the owner, Ms. Kateryna Turczyn, sold the house and moved back to Europe. The purchase was final on July 31, 2004.
9. The remaining eight (8) inventors listed on the application, namely Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy, have duly signed and dated the combined Declaration and Power of Attorney as required. A copy of the signed documents is attached hereto as Exhibit 7.

10. The due date for filing the Declaration in connection with the captioned application, with a four months extension of time, is November 24, 2004. It is respectfully requested that the attached combined Declaration and Power of Attorney executed by inventors Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy be accepted under 37 C.F.R. 1.47(a) on behalf of themselves and the nonsigning inventor, Jurek Cybuch. Such action is necessary to prevent the application from becoming abandoned, to preserve the rights of the parties, and to prevent irreparable damage.
11. In the event that I am able to subsequently locate an heir and obtain the signature of that person, a supplemental Declaration executed by the inventors will be filed.
12. Please charge Applicant's Deposit Account Number 502-590 in the amount of \$130.00 to cover the fee for this petition. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Applicant's Deposit Account Number 502-590.
13. A "Response to the Notice to File Missing Parts of Application Filing Date Granted (PTO-1533)(Large Entity)" is being simultaneously submitted attaching the combined Declaration and Power of Attorney executed and dated by inventors Nick Arini, Alla Zaltsman, Ian Goodyer, Yuriy Alexandrov, Bohdan Soltys, Louis Dagenais, Liz Roquemore and Sam Murphy. An authorization to charge the surcharge of \$130.00 is included with the response. Additionally included with the response is an authorization to charge the fee for a four months extension of

time for responding of \$1,530.00 to Applicant's Deposit Account Number 502-590.

14. Please direct any outstanding issues directly to Applicant's representative at the contact number listed below.

Respectfully submitted,

AMERSHAM BIOSCIENCES CORP

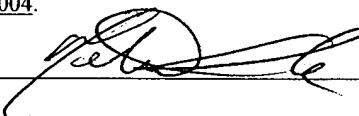
By:

Royal N. Ronning, Jr.
Reg. No.: 32,529
Attorney for Applicants

Amersham Biosciences Corp
800 Centennial Avenue
P. O. Box 1327
Piscataway, New Jersey 08855-1327

Tel: (732) 457-8423
Fax: (732) 457-8463

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on October 27, 2004.

Signature: 

Name: Melissa Leck



UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 04 2005
U.S. PATENT & TRADEMARK OFFICE
RECEIVED

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/817,213	04/02/2004	Nick Arini	PA0385

Amersham Biosciences Corp
Patent Department
800 Centennial Avenue
Piscataway, NJ 08855

CONFIRMATION NO. 3864
FORMALITIES LETTER

OC000000012747698

Date Mailed: 05/24/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

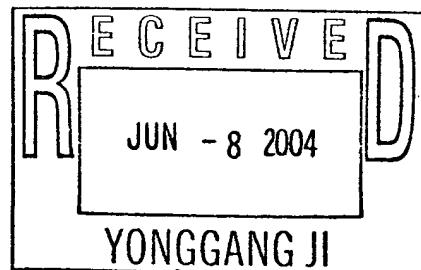
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$130** for a Large Entity

- **\$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450



*A copy of this notice **MUST** be returned with the reply.*

Z. Araya
Customer Service Center

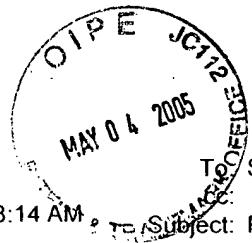
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Melissa Leck

08/09/2004 08:14 AM



Susan Wildman/UK/xynet@xynet

Subject: PA0385 - US forms

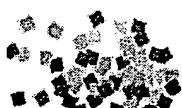
Hi Sue -

Thanks for the attached and for the rest of the signed forms. I got them on Friday.
I'll take it from here and keep you copied on my actions and any developments. Thanks again for all of
your help with this one!

Cheers:

Melissa

Susan Wildman



Susan Wildman

08/09/2004 03:18 AM

To: Melissa Leck/US/xynet@xynet

cc:

Subject: Re: Updated Address List

Hi Melissa

Please see below the only address known of J Cybuch, hope that it helps.

Susan Wildman
Patent Formalities Officer

GE Healthcare Bio-Sciences
Amersham plc
Amersham Place, Little Chalfont,
Buckinghamshire HP7 9NA
Tel: +44 1494 542166
Fax: +44 1494 542996

www.gehealthcare.com
---- Forwarded by Susan Wildman/UK/xynet on 09/08/2004 08:22 ----

Anne Lancaster

05/08/2004 18:15

To: Susan Wildman/UK/xynet@xynet
cc: Brenda Hobbs/CA/xynet@xynet
Subject: Re: Updated Address List

Susan:

Sorry I should have replied sooner - we have tried through numerous ways to get a forwarding address for Jurek, unfortunately all I have is his old landlady's address here in St. Catharines:

Jurek Cybuch
c/o Kateryna Turczyn
7 Wesfield Avenue
St. Catharines, Ontario
L2S 5Z5

Anne Lancaster
Human Resources Department

Docket No.: PA0385
Application No.: 10/817,213
Filing Date: 2 April 2004
Group Art Unit: To be assigned
Examiner: To be assigned
Declaration Submitted After Initial Filing



**DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Method of, and Computer Software for, Classification of Cells into Subpopulations

the specification of which

is attached hereto.

OR

was filed on 2 April 2004 as United States Application No. 10/817,213.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f) or Section 365 (b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign applications for patent or inventor's certificate or

PCT International application having a filing date before that of the application on which priority is claimed.

0307684.1
(Number)

Great Britain
(Country)

2 April 2003
(Day/Month/Year Filed)

0327651.6
(Number)

Great Britain
(Country)

28 November 2003
(Day/Month/Year Filed)

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional patent application(s) listed below:

(Application Serial No.)

(Filing Date)

I hereby claim the benefit under 35 U.S.C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, CFR Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Application Serial No.)

(Filing Date)

As a named inventor, I hereby appoint the following attorneys or agents to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith:

Customer Number: **22840**

Send correspondence to: Amersham Biosciences Corp
800 Centennial Avenue
Piscataway, New Jersey 08855

Direct telephone calls to: **(732) 457-8000**

Direct facsimiles to: **(732) 457-8463**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Nick Arini

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: Great Britain

Full name of second inventor: Alla Zaltsman

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: Great Britain

Full name of third inventor: Ian Goodyer

Inventor's signature: _____

Date: _____

Post Office Address: 8 Harris Court, 111 Tideswell Road
Eastbourne EN21 3RF Great Britain

Citizenship: Great Britain

Full name of fourth inventor: Yuriy Alexandrov

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Canada

Full name of fifth inventor: Jurek Cybuch

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Ukraine

Full name of sixth inventor: Bohdan Soltys

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Canada

Full name of seventh inventor: Louis Dagenais

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Canada

Full name of eighth inventor: Liz Roquemore

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: United States

Full name of ninth inventor: Sam Murphy

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: Great Britain

GE Healthcare



August 25, 2004

Via Federal Express and Confirmed via post

Mr. Jurek Cybuch
7 Westfield Avenue
St. Catharines, Ontario
Canada L2S 5Z5

Re: "Method of, and Computer Software for, Classification of Cells into Subpopulations"
United States Patent Application No.: 10/817,213
Filing Date: April 2, 2004
Inventors: N. Arini, et al.
Our ref: PA0385

Dear Mr. Cybuch:

I hope this letter finds you well. I am the paralegal for the patent department of GE Healthcare Bio-Sciences, formerly Amersham Biosciences Corp, in Piscataway, New Jersey. I am writing with regard to the referenced United States patent application, on which you are a named inventor. I enclose herewith a copy of the application as filed which includes the specification totaling forty-nine pages, the sequence listing totaling one page, the claims totaling five pages, the abstract totaling one page and twelve drawing sheets.

It is my responsibility to ensure that the formalities requirements of the United States Patent and Trademark Office are met with each application we file. Therefore, enclosed you will find a combined Declaration and Power of Attorney form totaling six pages and an Assignment form totaling five pages. These forms simply state that you are an inventor on the application, that you identify with the priority applications filed in Great Britain, that you are a citizen of the Ukraine and that the rights of Amersham Biosciences UK Limited to the application are secure. Upon your review, kindly sign and date the forms where your name is indicated. A prepaid return Federal Express envelope is enclosed for your convenience in returning the signed original documents to me at no charge to you. Please note that your signature on the Assignment form should be witnessed.

General Electric Company
Amersham Biosciences Corp
800 Centennial Avenue
Piscataway, NJ 08854
U.S.A.

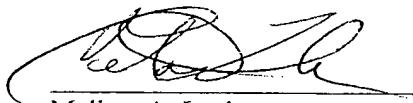
T 732 457 8000
F 732 457 8463



Mr. Jurek Cybuc
August 25, 2004
Page 2 of 2

Please do not hesitate to contact me with any questions that you may have, and I thank you very much in advance for your time and anticipated cooperation in this matter.

Very truly yours,



Melissa A. Leck

Paralegal

T 732 980 2945

F 732 457 8463

E melissa.leck@ge.com

enc: United States Patent Application number 10/817,213 as filed: specification (49 pages), sequence listing (1 page), claims (5 pages), abstract (1 page) and drawing sheets (12 pages)
Assignment Form (5 pages)
Combined Declaration and Power of Attorney (6 pages)
prepaid return Federal Express envelope

cc: Susan Wildman, Formalities Assistant, Amersham plc, Amersham Place, Great Britain (via courier w/o enc.)
Ian Bryan, Patent Officer, Amersham plc, Amersham Place, Great Britain (via courier w/o enc.)

From: Origin ID: ZRPA (732) 980-2945
 Melissa Leck
 AMERSHAM BIOSCIENCES
 800 CENTENNIAL AVENUE



PISCATAWAY, NJ 08854
 UNITED STATES

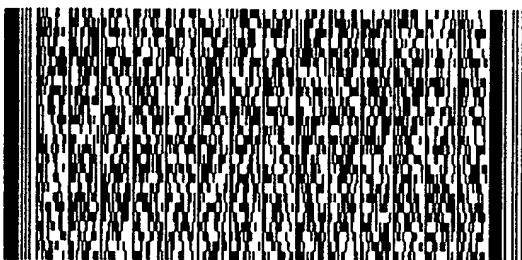
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Jurek Cybucu

7 Westfield Avenue

St. Catharines, ON L2S3A1
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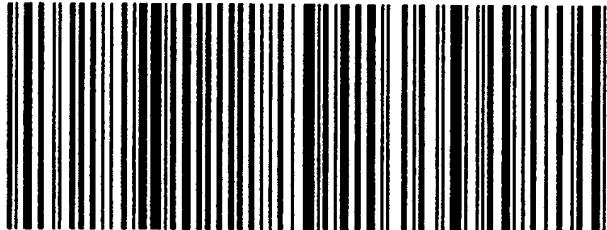
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Refer to the Convention to determine the claims period for your shipment. The right to damages against us shall be extinguished unless an action is brought within two years, as set forth in the Convention. FedEx is not obligated to act on any claim until all transportation charges have been paid. The claim amount may not be deducted from the transportation charges. If the recipient accepts the shipment without noting any damage on the delivery record, FedEx will assume the shipment was delivered in good condition. In order for us to consider a claim for damage, the contents, original shipping carton and packing must be made available to us for inspection. MANDATORY LAW: Insofar as any provision contained or referred to in this Air Waybill may be contrary to any applicable international treaties, laws, government regulations, orders or requirements such provisions shall remain in effect as a part of our agreement to the extent that it is not overridden. 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Address 800 Centennial Ave
City Princeton, NJ State NJ
Country ZIP 08854
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Date

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Recipient's Signature

473

PART 19520
Rev. Date 02/07
GSA 02/07
Printed in U.S.A.

BETWEEN:



AMERSHAM BIOSCIENCES NIAGARA INC.

and

JUREK CYBUCH

AFFIDAVIT OF ATTEMPTED SERVICE

I, Jim Marlow, Bailiff, of the City of Niagara Falls, in the Regional Municipality of Niagara, MAKE OATH
AND SAY:

1. On September 10, 2004, at 10:30 a.m., I attempted to serve Jurek Cybuch with the attached envelope, which is attached to this my affidavit and marked as Exhibit "A". When I attended at 7 Westfield Avenue, St. Catharines I was advised by the current owner that she had purchased the house from Kateryna Turczyn on July 31, 2004. The new owner said that Jurek Cybuch had passed away and Ms. Turczyn had sold the house and moved back to Europe.

Sworn before me at the
City of Niagara Falls, in the
Regional Municipality of Niagara
in the Province of Ontario
this 17th day of September, 2004

Commissioner for Taking Affidavits

**Donna Marie Wilkinson, a Commissioner, etc.,
Regional Municipality of Niagara, for
851907 Ontario Inc. o/a Niagara Bailiff Services
and for Process Serving and Tenant Protection Act, 1997
matters only. Expires August 3, 2007.**

GE Healthcare

General Electric Company
Imersham Biosciences Corp
100 Centennial Avenue
Piscataway, NJ 08855-1327
U.S.A.

Turek Cybouch
7 Westfield Avenue
St. Catharines
L2S 5Z5

Docket No.: PA0385
Application No.: 10/817,213
Filing Date: 2 April 2004
Group Art Unit: To be assigned
Examiner: To be assigned
Declaration Submitted After Initial Filing



**DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Method of, and Computer Software for, Classification of Cells into Subpopulations

the specification of which

[] is attached hereto.

OR

was filed on 2 April 2004 as United States Application No. 10/817,213.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f) or Section 365 (b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign applications for patent or inventor's certificate or

PCT International application having a filing date before that of the application on which priority is claimed.

0307684.1
(Number)

Great Britain
(Country)

2 April 2003
(Day/Month/Year Filed)

0327651.6
(Number)

Great Britain
(Country)

28 November 2003
(Day/Month/Year Filed)

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional patent application(s) listed below:

(Application Serial No.)

(Filing Date)

I hereby claim the benefit under 35 U.S.C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, CFR Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Application Serial No.)

(Filing Date)

As a named inventor, I hereby appoint the following attorneys or agents to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith:

Customer Number: **22840**

Send correspondence to: Amersham Biosciences Corp
800 Centennial Avenue
Piscataway, New Jersey 08855

Direct telephone calls to: (732) 457-8000

Direct facsimiles to: (732) 457-8463

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Nick Arini

Inventor's signature:



Date:

14 July 2004

Post Office Address:

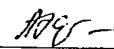
The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship:

Great Britain

Full name of second inventor: Alla Zaltsman

Inventor's signature:



Date:

20 July 2004

Post Office Address:

The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship:

Great Britain

Full name of third inventor: Ian Goodyer

Inventor's signature: _____

Date: _____

Post Office Address: 8 Harris Court, 111 Tideswell Road
Eastbourne EN21 3RF Great Britain

Citizenship: Great Britain

Full name of fourth inventor: Yuriy Alexandrov

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Canada

Full name of fifth inventor: Jurek Cybuch

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Ukraine

Full name of sixth inventor:

Bohdan Soltys

Inventor's signature:



Date:



Post Office Address:

500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

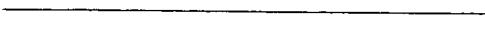
Citizenship:

Canada

Full name of seventh inventor:

Louis Dagenais

Inventor's signature:



Date:



Post Office Address:

500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

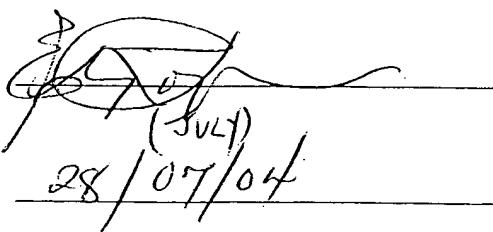
Citizenship:

Canada

Full name of eighth inventor:

Liz Roquemore

Inventor's signature:


(SULY)
28/07/04

Date:

Post Office Address:

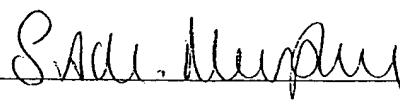
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Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship:

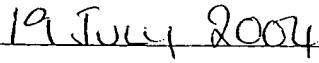
United States

Full name of ninth inventor: Sam Murphy

Inventor's signature:



Date:



Post Office Address:

The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship:

Great Britain

Docket No.: PA0385
Application No.: 10/817,213
Filing Date: 2 April 2004
Group Art Unit: To be assigned
Examiner: To be assigned
Declaration Submitted After Initial Filing



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the specification of which

[] is attached hereto.

OR

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(Number) (Country) (Day/Month/Year Filed)

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Full name of first inventor: Nick Arini

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: Great Britain

Full name of second inventor: Alla Zaltsman

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: Great Britain

Full name of third inventor:

Ian Goodyer

Inventor's signature:



Date:

21 July 04

Post Office Address:

8 Harris Court, 111 Tideswell Road
Eastbourne EN21 3RF Great Britain

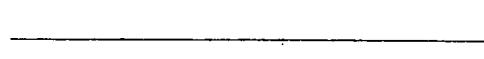
Citizenship:

Great Britain

Full name of fourth inventor:

Yuriy Alexandrov

Inventor's signature:



Date:



Post Office Address:

500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

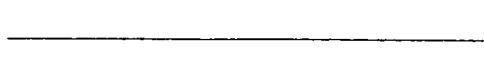
Citizenship:

Canada

Full name of fifth inventor:

Jurek Cybuch

Inventor's signature:



Date:



Post Office Address:

500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship:

Ukraine

Full name of sixth inventor: Bohdan Soltys

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Canada

Full name of seventh inventor: Louis Dagenais

Inventor's signature: _____

Date: _____

Post Office Address: 500 Glenridge Avenue, St. Catharines
Ontario, Canada L2S 3A1

Citizenship: Canada

Full name of eighth inventor: Liz Roquemore

Inventor's signature: _____

Date: _____

Post Office Address: The Maynard Centre
Forest Farm Estate, Whitchurch
Cardiff CF14 7YT Great Britain

Citizenship: United States

Full name of ninth inventor: Sam Murphy

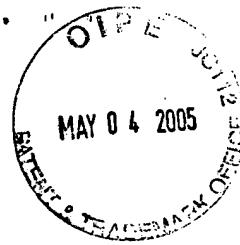
Inventor's signature: _____

Date: _____

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The Maynard Centre
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(Application Serial No.)

(Filing Date)

I hereby claim the benefit under 35 U.S.C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, CFR Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Application Serial No.)

(Filing Date)

As a named inventor, I hereby appoint the following attorneys or agents to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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